

§ 39.1

SOURCE: 69 FR 16346, Mar. 29, 2004, unless otherwise noted.

Subpart A—General Provisions

§ 39.1 Purpose.

This part sets forth the mechanism for a State to obtain a grant to establish, expand, or improve veterans' cemeteries that are or will be owned by the State.

(Authority: 38 U.S.C. 501, 2408.)

§ 39.2 Definitions.

For the purpose of this part:

(a) *Establishment* means the process of site selection, land acquisition, design and planning, earthmoving, landscaping, construction and provision of initial operating equipment necessary to convert a tract of land to an operational veterans' cemetery.

(b) *Expansion* means an increase in the burial capacity or acreage of an existing cemetery through the addition of gravesites and other cemeterial facilities.

(c) *Improvement* means the enhancement of a cemetery through landscaping, nonrecurring maintenance, or addition of other features appropriate to cemeteries.

(d) *Establishment, expansion and improvement* include the installation of facilities necessary for the functioning of the cemetery, such as committal-service shelters, crypts (preplaced grave liners), and columbaria.

(e) *Time-phased development plan* means a detailed, narrative description of the proposed site's characteristics, schedule for development, and estimates of costs by phases of construction.

(f) *Project* means an undertaking to establish, expand, or improve a specific site for use as a State-owned veterans' cemetery.

(g) *State* means each of the States, Territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(h) *Veteran* means a person who served in the active military, naval, or air service and who died while in service or was discharged or released under conditions other than dishonorable.

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(i) *Secretary* means the Secretary of the United States Department of Veterans Affairs.

(j) *VA* means the United States Department of Veterans Affairs.

(k) *State Cemetery Grants Service (SCGS)* means the State Cemetery Grants Service within VA's National Cemetery Administration.

(Authority: 38 U.S.C. 101, 501, 2408.)

§ 39.3 Decisionmakers, notifications, and additional information.

Decisions required under this part will be made by the Director, State Cemetery Grants Service, National Cemetery Administration, unless otherwise specified in this part. The VA decisionmaker will provide written notice to affected States of approvals, denials, or requests for additional information under this part.

(Authority: 38 U.S.C. 501, 2408.)

§ 39.4 Submissions of information and documents to VA.

All information and documents required to be submitted to VA must be submitted, unless otherwise specified under this part, to the Director of State Cemetery Grants Service, National Cemetery Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420.

(Authority: 38 U.S.C. 501, 2408.)

Subpart B—Grant Requirements and Procedures

§ 39.5 General requirements for a grant.

(a) In order to qualify for a grant, a State veterans' cemetery must be operated solely for the interment of veterans, their spouses, surviving spouses, minor children, and unmarried adult children who were physically or mentally disabled and incapable of self-support.

(b) For a State to obtain a grant under this part for the establishment, expansion, or improvement of a State veterans' cemetery:

(1) Its preapplication for the grant must be approved under § 39.6;

(2) Its project must be ranked sufficiently high on the priority list in § 39.7

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for the current fiscal year so that funds are available for the project;

(3) Its plans and specifications for the project must be approved under § 39.8;

(4) The State must meet the application requirements in § 39.10; and

(5) Other requirements specified in §§ 39.9 and 39.13 must be satisfied.

(c) VA may approve under § 39.11 any application up to the amount of the grant requested once the requirements under paragraph (b) of this section have been satisfied, provided that sufficient funds are available. In determining whether sufficient funds are available, VA shall consider the project's priority ranking, the total amount of funds available for cemetery grant awards during the applicable fiscal year, and the prospects of higher ranking projects being ready for the award of a grant before the end of the applicable fiscal year.

(Authority: 38 U.S.C. 501, 2408)

(d) Any grant under this part made on or after November 21, 1997, is made on the condition that after the date of receipt of the grant the State receiving the grant, subject to requirements for receipt of notice in 38 U.S.C. 2408 and 2411, will prohibit in the cemetery for which the grant is furnished the interment of the remains of or the memorialization of any person:

(1) Who has been convicted of a Federal capital crime, as defined in § 38.600(b) of this chapter, and whose conviction is final, other than a person whose sentence was commuted by the President;

(2) Who has been convicted of a State capital crime, as defined in § 38.600(b) of this chapter, and whose conviction is final, other than a person whose sentence was commuted by the Governor of a State.

(3) Who has been found by an appropriate State official, under procedures to be established by the State, to have committed a Federal or State capital crime, as defined in § 38.600(b) of this chapter, but to have not been convicted of such crime by reason of unavailability for trial due to death or flight to avoid prosecution.

(Authority: 38 U.S.C. 501, 2408, 2411)

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§ 39.6 Preapplication requirements.

(a) A State seeking a grant for the establishment, expansion, or improvement of a veterans' cemetery must submit a preapplication if the State seeks more than \$100,000.

(b) No detailed drawings, plans, or specifications are required with the preapplication. As a part of the preapplication, the State must submit each of the following:

(1) Standard Form 424 ("Face Sheet") and Standard Form 424C ("Budget Information") signed by the authorized representative of the State. These forms document the amount of the grant requested, which may not exceed 100 percent of the estimated cost of the project to be funded with the grant.

(2) A program narrative describing the objectives of the project, the need for a grant, the method of accomplishment, the projected interment rate, and the results or benefits expected to be obtained from the assistance requested.

(3) If a site has been selected, a description of the geographic location of the project (*i.e.*, a map showing the location of the project and all appropriate geographic boundaries, and any other supporting documentation, as needed).

(4) A design concept describing the major features of the project including the number and types of gravesites, such as columbarium niches.

(5) Any comments or recommendations made by the State's "Single Point of Contact" reviewing agency.

(c) In addition, the State must submit written assurance that:

(1) Any cemetery established, expanded, or improved through a grant will be used exclusively for the interment or memorialization of eligible persons, as set forth in §§ 39.2(h) and 39.5(a), whose interment or memorialization is not contrary to the conditions of the grant (see §§ 39.5(d) and 38 U.S.C. 2408 and 2411).

(2) Title to the site is or will be vested solely in the State.

(3) It possesses legal authority to apply for the grant, and to finance and construct the proposed facilities; *i.e.*, legislation or similar action has been duly adopted or passed as an official act of the applicant's governing body,